

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JPMORGAN CHASE BANK,)	
NATIONAL ASSOCIATION,)	Case No. 1:23-cv-01112
)	
Plaintiff,)	Hon. District Judge Robert J. Jonker
)	Magistrate Judge Sally J. Berens
v.)	
)	
JOHN W. HIGGINS,)	
MARTHA R. HIGGINS; and the)	
UNITED STATES OF AMERICA,)	
)	
Defendants.)	
UNITED STATES OF AMERICA,)	
)	
Counterclaim/Crossclaim Plaintiff,)	
)	
v.)	
)	
JOHN W. HIGGINS,)	
MARTHA R. HIGGINS;)	
)	
Crossclaim Defendants,)	
)	
And)	
)	
JPMORGAN CHASE BANK, N.A.,)	
)	
Counterclaim Defendant.)	

UNITED STATES' MOTION FOR SUMMARY JUDGMENT

The United States of America moves, pursuant to Rule 56 of the Federal Rules of Civil Procedure, for summary judgment on all counts. The United States asks this Court to order that (1) in accord with Count 1 of the United States' crossclaim, the defendants John and Martha Higgins are liable for the federal income tax, penalties, and interest for tax periods 2011, 2016, and 2021 in the amount of \$947,974.37, plus statutory additions and interest accruing from and after August 14, 2024; and (2) in accord with Count 2 of the United States' crossclaim, there

exist valid and subsisting tax liens securing those income tax liabilities that attached to the real property located at 50102 Alpine Blvd., New Buffalo, Michigan 49117 (the “Property”), and (3) the United States is entitled to enforce the federal tax liens for tax years 2011, 2016, and 2021 against the Property by having the Court appoint a locally experienced real estate agent of the United States’ choosing as a receiver to sell the Property in a judicial sale, free and clear of all rights, titles, claims, liens, and interest of the parties, pursuant 26 U.S.C. § 7403(d).

Alternatively, if the Court determines there is a triable issue of fact regarding the statute of limitations for year 2011 (in ECF No. 71, at Page ID 390, John and Martha Higgins admitted the 2016 and 2021 liabilities), the United States requests summary judgment with respect to years 2016 and 2021 and the enforcement of the liens for those periods and with proceeds otherwise available to satisfy the 2011-year lien to be retained in the registry of the Court pending trial on year 2011.

The United States seeks to enforce its liens and sell the entirety of the Property. Plaintiff JPMorgan Chase Bank, N.A., has a clearly superior claim against Lot 18 of the property and a right to also seek sale of that lot, and the United States and Chase have reached an agreement as to the sale and distribution of proceeds of Lot 203 to which the federal tax liens clearly attach and in regard to which Chase’s complaint seeks reformation. The United States files this motion and seeks an order for judicial sale of Lot 18 and Lot 203 in accord with its agreement with Chase and the granting of this motion will render Chase’s request for reformation moot. After consultation regarding this motion, Chase concurs with the motion as against the Higginses and otherwise preserves its position to remain consistent with its prior pleadings.

The United States contacted defendant John and Martha Higgins seeking concurrence on this motion. They both oppose the motion.

The United States provides a brief in support of this motion as well as the Declaration of Barry Hoops.

WHEREFORE, the United States requests that this Court grant this motion and enter judgment that the Higginses are liable for federal income tax, penalties, and interest for the tax years 2011, 2016, and 2021 the amount of \$947,974.37, plus statutory additions and interest accruing from and after August 14, 2024, and that the United States entitled to enforce the corresponding federal tax liens by nominating a receiver to be appointed by this Court to market and sell the property, including Lot 18 and Lot 203, with the proceeds to be distributed among Chase and the United States according to their Settlement Agreement.

DAVID A. HUBBERT
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